

REMARKS/ARGUMENTS

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance. The present amendment is being made to facilitate prosecution of the application and does not require further search by the Examiner.

I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 1-26 are pending in this application. Claims 1, 14, 15, 16, 18, 20 and 22, which are independent, have been amended. Support for this amendment is provided throughout the Specification as originally filed. No new matter has been introduced by this amendment. Changes to claims are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103, or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicants are entitled. Applicants submit that the amendments to the claims do not require further search and, therefore, Applicants respectfully request that the amendment be entered and considered.

II. 35 U.S.C. § 103(a) REJECTIONS

Claims 1-26 were rejected under 35 U.S.C. 103(a) as allegedly unpatentable over U.S. Patent No. 6,148,301 to Rosenthal (“Rosenthal”) in view of U.S. Patent No. 6,324,620 to Christenson et al. (“Christenson”) in further view of U.S. Patent No. 6,016,509 to Dedrick (“Dedrick”). Applicants respectfully traverse the rejection because the combined references fail to make a *prima facie* case of obviousness.

Independent claim 1, recites, *inter alia*:

“An information distributing method...characterized in that an amount of money billed to a user each subsequent time said information is distributed to said user is determined depending on the number of times that said information has previously been distributed to at least one user within a predetermined time period, each said amount of money billed being determined independently for each time said information is distributed.” (emphasis added)

As understood by Applicants, Rosenthal relates to subscription facsimile system in which providers supply new documents for storing images in a centralized database. Subscribers register with a system as to one or more subject matter areas of interest. A processor cyclically scans the document database for new documents that have been added. The processor correlates the subject matter of the newly added documents to the identity of the subscribers having an interest in the subject matter. The new documents are then transmitted by way of facsimile to the subscribers who have registered an interest in the subject matter.

As understood by Applicants, Christenson relates to a method and apparatus for managing data on DASD (direct access storage devices) units to improve system performance. This includes monitoring portions of data on a plurality of DASD units to determine the times the data is accessed within a given time period, and characterizing accessed data portions of a DASD unit as HOT and COLD data. The DASD units are monitored to determine the number of times each unit is accessed within a time period to develop utilization factors reflective of the number of times the DASD unit is accessed during the time period. HOT and COLD data is moved between DASD units based on the utilization factors of the DASD units.

As understood by Applicants, Dedrick relates to a computer network system that contains a metering mechanism that can meter the flow of electronic information to a client computer within a network. The information can be generated by a publisher and electronically distributed to a plurality of metering servers which each contain the metering mechanism. The metering

· servers each reside in a local area network that contains a number of client computers. Each unit of information has an associated cost type and cost value that are used to calculate a price for the information.

Applicants submit that the combination of Rosenthal, Christenson and Dedrick fail to make the required *prima facie* case of obviousness for a valid rejection. Indeed, at paragraph 3 of the present Office Action the Examiner stated that “the combination of Rosenthal and Christenson et al. fail to teach an inventive concept wherein the amount billed being determined independently each time the information is distributed.” The Examiner relied only on Dedrick to teach the above-mentioned limitation.

Applicants point to the portion of Dedrick relied on by the Examiner, which states that a provider may have an initial hook up charge when the user connects with the system, and then subsequent charges for each minute that the user has access to a database...for each search within a content database or each time a user accesses a different library (column 1, lines 37-45) (emphasis added). Furthermore, the cost may be pay per view, pay per byte or pay per time (column 2, lines 11-14 and column 4, lines 60-67). Applicants submit that this disclosure fails to provide the necessary teaching, when combined with Rosenthal and Christenson, to render claim 1 obvious.

Specifically, Applicants submit that nothing has been found in Rosenthal, Christenson or Dedrick, taken alone or in combination, that would teach or suggest an amount of money billed to a user each subsequent time said information is distributed to said user is determined depending on the number of times that said information has previously been distributed to at least one user within a predetermined time period, as recited in claim 1.

Therefore, independent claim 1 is believed to be allowable over the applied combination of Rosenthal, Christenson and Dedrick.

For reasons similar to those described above with regard to independent claim 1, independent claims 14-16, 18, 20 and 22 are also believed to be allowable.

Further, claims 2-13, 17, 19 and 21 depend, either directly or indirectly, from one of the independent claims, and therefore are believed to be allowable.

CONCLUSION

Applicants submit that this amendment does not require further search and respectfully request that the amendment be entered and the application allowed.

Statements appearing above in respect to the disclosures in the cited references represent the present opinions of the undersigned attorney and, in the event the Examiner disagrees with any of such opinions, it is respectfully requested that the Examiner specifically indicate those portions of the references providing the basis for a contrary view.

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable and Applicants respectfully request early passage to issue of the present application.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicants

By 
William S. Frommer
Reg. No. 25,506
(212) 588-0800